

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF IOWA**

In re:	)	
	)	Chapter 11
MERCY HOSPITAL, IOWA CITY, IOWA, <i>et al.</i> ,	)	
	)	Case No. 23-00623 (TJC)
Debtors.	)	
	)	Jointly Administered
	)	

**DEBTORS' MOTION FOR ENTRY OF ORDER MODIFYING LOCAL RULE 3018-1(C)  
IN CONNECTION WITH CONFIRMATION HEARING**

Mercy Hospital, Iowa City, Iowa (“Mercy”) and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “Debtors”), hereby move (the “Motion”) for entry of an order substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”) modifying Rule 3018-1(c) of the *Local Rules of Bankruptcy Practice and Procedure* (the “Local Rules”) in connection with the final hearing to consider confirmation of the plan portion of *Debtors' First Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation* (the “Combined Disclosure Statement and Plan”) on Thursday, May 16, 2024 (the “Confirmation Hearing”). In support thereof, the Debtors respectfully represent as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Public Administrative Order* referring bankruptcy cases entered by the United States District Court for the Northern District of Iowa. This is a core proceeding under 28 U.S.C.

§ 157(b). Venue of these cases and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The legal predicates for the relief requested herein are section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Local Rule 3018-1.

3. The Debtors confirm their consent to the entry of a final order by the Court in connection with the Motion in the event that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

### **BACKGROUND**

#### **I. The Chapter 11 Cases**

4. On August 7, 2023 (the “Petition Date”), each of the Debtors commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the “Chapter 11 Cases”). The Chapter 11 Cases are being jointly administered for procedural purposes only.

5. The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

6. On August 15, 2023, the Office of the United States Trustee for the Northern District of Iowa (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”) in the Chapter 11 Cases [Docket No. 107]. On November 4, 2023 the U.S. Trustee appointed an official committee of pensioners (the “Pension Committee”) in the Chapter 11 Cases [Docket No. 458]. No trustee or examiner has been appointed in the Chapter 11 Cases.

7. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors’ business operations, capital structure, financial condition, and the reasons

for and objectives of these Chapter 11 Cases, is set forth in the *Declaration of Mark E. Toney in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 27].

## **II. The Confirmation Hearing**

8. On April 3, 2024, the Court entered its *Order (I) Approving Disclosure Statement; (II) Scheduling Hearing on Confirmation of Plan; (III) Establishing Deadlines and Procedures for (A) Filing Objections to Confirmation of Plan, (B) Claim Objections, and (C) Temporary Allowance of Claims for Voting Purposes; (IV) Determining Treatment of Certain Unliquidated, Contingent, or Disputed Claims for Notice, Voting, and Distribution Purposes; (V) Setting Record Date; (VI) Approving (A) Solicitation Packages and Procedures for Distribution, (B) Form of Notice of Hearing on Confirmation and Related Matters, and (C) Forms of Ballots; (VII) Establishing Voting Deadline and Procedures for Tabulation of Votes; and (VIII) Granting Related Relief* [Docket No. 926] (the “Solicitation Procedures Order”).

9. Among other things, the Solicitation Procedures Order approved the disclosure statement portion of the Combined Disclosure Statement and Plan pursuant to Bankruptcy Code section 1125, set the Confirmation Hearing to consider approval of the plan portion of the Combined Disclosure Statement and Plan, and approved the contents and form of ballots to be sent to the Debtors’ creditors entitled to vote on the Combined Disclosure Statement and Plan.

## **III. Modify Requirements of Local Rule 3018-1(C)**

10. Local Rule 3018-1(c) provides that “[a]ll ballots received, whether timely or untimely, must be bound together as an exhibit for the confirmation hearing.”

11. Pursuant to this Motion, the Debtors respectfully request that the Court modify the requirements of Local Rule 3018-1(c) to only require the Debtors to provide a flash drive that contains digital copies of the ballots received as the exhibit for the Confirmation Hearing.

12. The Debtors, through their solicitation agent Epiq Corporate Restructuring, LLC (“Epiq”), have sent over a thousand ballots to creditors entitled to vote on the Combined Disclosure Statement and Plan. The Debtors expect Epiq to receive many hundreds of ballots back from creditors voting on the Combined Disclosure Statement and Plan.

13. It would be administratively burdensome both for Epiq to express mail the physical ballots to counsel for the Debtors in time for the Confirmation Hearing and for counsel and the Court to handle the physical ballots.

14. Instead, a flash drive with true and accurate digital copies of the ballots compiled by Epiq will provide the evidence needed for the record while significantly easing administrative burdens for the Debtors, the Court, and Epiq.

15. Accordingly, the Debtors believe good cause exists to modify the requirements of Local Rule 3018-1(c) and to allow the Debtors to provide digital copies of the returned Combined Disclosure Statement and Plan in lieu of actual physical copies of the ballots at the Confirmation Hearing.

### **NOTICE**

16. The Debtors will provide notice of the Motion to: (a) the U.S. Trustee; (b) counsel for the Committee; (c) counsel for the Pension Committee; (d) the United States Attorney for the Northern District of Iowa; (e) the Centers for Medicare & Medicaid Services; (f) counsel for the Secured Bondholder Representative; and (g) all parties entitled to notice pursuant to Bankruptcy Rule 2002. The Debtors submit that no other or further notice is required.

### **NO PRIOR REQUEST**

17. No previous request for the relief sought herein has been made to this or any other court.

**CONCLUSION**

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: Cedar Rapids, Iowa  
April 24, 2024

**NYEMASTER GOODE, P.C.**

/s/ Roy Leaf

Roy Leaf, AT0014486  
625 First Street SE, Suite 400  
Cedar Rapids, IA 52401-2030  
Telephone: (319) 286-7002  
Facsimile: (319) 286-7050  
Email: rleaf@nyemaster.com

- and -

Kristina M. Stanger, AT0000255  
Matthew A. McGuire, AT0011932  
Dana Hempy, AT0014934  
700 Walnut, Suite 1600  
Des Moines, IA 50309  
Telephone: 515-283-3100  
Fax: 515-283-8045  
Email: mmcguire@nyemaster.com  
kmstanger@nyemaster.com  
dhempy@nyemaster.com

- and -

**MCDERMOTT WILL & EMERY LLP**

Felicia Gerber Perlman (admitted *pro hac vice*)  
Daniel M. Simon (admitted *pro hac vice*)  
Emily C. Keil (admitted *pro hac vice*)  
444 West Lake Street, Suite 4000  
Chicago, IL 60606  
Telephone: (312) 372-2000  
Facsimile: (312) 984-7700  
Email: fperlman@mwe.com  
dsimon@mwe.com  
ekeil@mwe.com

- and -

Jack G. Haake (admitted *pro hac vice*)  
2501 North Harwood Street, Suite 1900  
Dallas, TX 75201  
Telephone: (214) 295-8000  
Facsimile: (972) 232-3098  
Email: jhaake@mwe.com

*Counsel for Debtors and Debtors-in-Possession*

**CERTIFICATE OF SERVICE**

The undersigned certifies, under penalty of perjury, that on this April 24, 2024, the foregoing document was electronically filed with the Clerk of Court using the Northern District of Iowa CM/ECF and the document was served electronically through the CM/ECF system to the parties of the Chapter 11 Cases.

/s/ Roy Leaf